

Appl. No. : 10/771,703  
Filed : February 4, 2004

### **REMARKS**

The foregoing amendments and the following remarks are responsive to the December 2, 2004 Office Action. Claims 1-6 and 8 are amended, Claim 7 remains as originally filed, and new Claim 9 is added. Thus, Claims 1-9 are presented for further consideration. Please enter the amendments and reconsider the claims in view of the following remarks.

#### **Response to Rejection of Claims 1-5 and 8 Under 35 U.S.C. §§ 102(b) and 102(e)**

In the December 2, 2004 Office Action, the Examiner rejects Claims 1-5 and 8 under 35 U.S.C. § 102(b) as being anticipated by U.S. Design Patent No. D99,117 issued to Drinkert and under 35 U.S.C. § 102(e) as being anticipated by U.S. Design Patent No. D453,810 issued to Lee.

As described herein, Applicant has amended Claims 1-5 and 8. Amended Claim 1 recites (emphasis added):

1. A one-piece tee for supporting a golf ball, comprising an elongated body having a head on one end formed to receive and support a golf ball and having a tip on its other end adapted to penetrate the ground to support the tee head at a desired height, a first stop on the body spaced upwardly from the tip, the first stop formed by a first plurality of ribs of the body extending along at least a first portion of the body, the first stop being constructed to enable a person to sense the increased penetration resistance encountered when the first stop engages the ground so that a first depth of penetration will indicate the approximate amount of the tee extending above the first stop, which would be a desirable location for positioning the golf ball to be hit by a large head golf club, the first stop being further constructed such that the tee can be normally inserted further without difficulty to a second depth desirable for use with a golf club having a smaller head.

Furthermore, amended Claim 8 recites (emphasis added):

8. A method of positioning the head of a golf tee at a desired distance above the ground, comprising inserting the tip end of the golf tee into the ground until a depth of penetration by a first stop on the tee at which a person can feel a marked increase in the resistance to insertion, but yet can be readily inserted further, the first stop formed by a first plurality of ribs extending along at least a portion of the tee, the first stop providing an indication of the amount of tee extending above the first stop suitable for use in connection with a large golf club head.

Applicant submits that neither Drinkert nor Lee disclose all the limitations of amended Claim 1 or of amended Claim 8. Claim 2 depends from amended Claim 1, Claim 3 depends from Claim 2, Claim 4 depends from Claim 3, and Claim 5 depends from Claim 4. Thus, each of Claims 2-5 includes all the limitations of amended Claim 1, as well as other limitations of particular utility.

**Appl. No.** : 10/771,703  
**Filed** : February 4, 2004

Therefore, Applicant submits that Claims 1-5 and 8 are patentably distinguished over Drinkert or Lee, and Applicant respectfully requests that the Examiner withdraw the rejection of Claims 1-5 and 8 and pass these claims to allowance.

**Response to Rejection of Claims 6 and 7 Under 35 U.S.C. § 103(a)**

In the December 2, 2004 Office Action, the Examiner rejects Claim 6 under 35 U.S.C. § 103(a) as being unpatentable over Drinkert and as being unpatentable over Lee. The Examiner also rejects Claim 7 under 35 U.S.C. § 103(a) as being unpatentable over Drinkert in view of U.S. Patent No. 5,356,146 issued to Blosser and as being unpatentable over Lee in view of Blosser.

As described herein, Applicant has amended Claim 1 to include limitations not disclosed or suggested by either Drinkert or Lee. Claim 6 depends from Claim 3, which depends from Claim 2, which depends from amended Claim 1. Thus, Claim 6 includes all the limitations of amended Claim 1, as well as other limitations of particular utility. Therefore, Applicant submits that Claim 6 is patentably distinguished over Drinkert and over Lee, and Applicant respectfully requests that the Examiner withdraw the rejection of Claim 6 and pass Claim 6 to allowance.

Applicant submits that the limitations of amended Claim 1 that are not disclosed or suggested by either Drinkert or Lee are also not disclosed or suggested by Blosser. Thus, amended Claim 1 is patentably distinguished over Drinkert in view of Blosser and over Lee in view of Blosser. Claim 7 depends from Claim 3, which depends from Claim 2, which depends from amended Claim 1. Thus, Claim 7 includes all the limitations of amended Claim 1, as well as other limitations of particular utility. Therefore, Applicant submits that Claim 7 is patentably distinguished over Drinkert in view of Blosser and over Lee in view of Blosser, and Applicant respectfully requests that the Examiner withdraw the rejection of Claim 7 and pass Claim 7 to allowance.

**Summary**

For the foregoing reasons, Applicant submits that Claims 1-9 are in condition for allowance, and Applicant respectfully requests such action.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Appl. No. : 10/771,703  
Filed : February 4, 2004

Dated: 12/29/04

Respectfully submitted,

By: 

Bruce S. Itchkawitz  
Registration No. 47,677  
KNOBBE, MARTENS, OLSON & BEAR, LLP  
Attorney of Record  
2040 Main Street  
Fourteenth Floor  
Irvine, CA 92614  
(949) 760-0404

H:\DOCS\BSI\BSI-7400.DOC  
122904